

# OSEP MONTHLY TECHNICAL ASSISTANCE CALL

**ARP ACT IDEA FUNDS & DMS 2.0 PROTOCOL UPDATES**

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# Updates by OSEP Acting Director



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# Welcome and Agenda

- ▶ ARP Act IDEA funds
- ▶ Focus Group Feedback
- ▶ Protocol Overview
  - Integrated Monitoring
  - Sustaining Compliance and Improvement
- ▶ Next Steps on the Protocols

# American Rescue Plan (ARP) Act IDEA Funds

Reminders and Considerations

# Reminders and Considerations

- ▶ ARP Act funds are IDEA funds
- ▶ All the requirements for the use of IDEA funds apply
- ▶ All ARP Act IDEA funds must be obligated by September 30, 2023, and expended by January 28, 2024

# Reminders and Considerations Continued

- ▶ Consider sustainability
- ▶ Consider focus on challenges from the Pandemic
  - School re-entry
  - Disruption in the education of children with disabilities
  - Mental health services
- ▶ Consider focus on issue of equity in special education and early intervention services

# Final ARP Act IDEA Allocation Tables

- ▶ All final allocation tables are posted [here](#)
- ▶ Part C and Part B, Section 619 final tables were sent in email on June 4, 2021
- ▶ The Part B, Section 611 final tables were sent in an email on June 16, 2021

# CFDA #'s and Grant Award Notices (GANs)

- ▶ All ARP Act IDEA Funds will have separate CFDA #'s
  - 611: 84.027X
  - 619: 84.173X
  - Part C: 84.181X
- ▶ Separate GANs for regular IDEA awards and ARP Act IDEA awards
- ▶ Any subgrants should be treated the same



# Part B Section 611 State set aside funds

- ▶ (2) For each fiscal year, beginning with fiscal year 2005, the Secretary cumulatively adjusts—
  - (i) The maximum amount the State was eligible to reserve for State administration under section 611 of the Act for fiscal year 2004; and
  - (ii) \$800,000, by the rate of inflation as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

C.F.R. § 300.704(a)(2)

# Part B Section 619 State set aside funds

- ▶ (b) For each fiscal year, the Secretary determines and reports to the SEA an amount that is 25 percent of the amount the State received under section 619 of the Act for fiscal year 1997, cumulatively adjusted by the Secretary for each succeeding fiscal year by the lesser of—
  - (1) The percentage increase, if any, from the preceding fiscal year in the State's allocation under section 619 of the Act; or
  - (2) The rate of inflation, as measured by the percentage increase, if any, from the preceding fiscal year in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

# Adjustments to Section 611 allocations

- ▶ Tables sent on June 16<sup>th</sup> are correct and final
- ▶ Adjustments made:
  - A correction of two calculation issues in the original allocation table that affected the division of a State's allocation between the July 1 and October 1 payment but not the total allocation.
  - Additional funding allocated to States resulting from the reduction of one State's grant due to a failure to maintain State financial support (MFS).

# LEA Award Notifications and Applications

- ▶ Must meet the Federal award identification requirements in [2 C.F.R. § 200.332\(a\)\(1\)](#).
- ▶ LEAs are not required to submit separate applications for the regular IDEA Part B and the additional ARP Act IDEA Part B funds.
- ▶ States must ensure that the SEA and its LEAs can account for, and track the use of, IDEA ARP Act funds.

# LEA Allocations

- ▶ IDEA funds awarded under the ARP Act are not a separate grant program but serve as a supplement to the FFY 2021 IDEA funds.
- ▶ ARP Act IDEA Part B funds do not affect LEAs' base payment amounts under section 611 and section 619 of the IDEA.
- ▶ After making base payments, States must allocate the remaining IDEA section 611 and section 619 funds based on population and poverty (i.e., 85% population and 15% poverty), in accordance with [34 C.F.R. §§ 300.705\(b\)\(3\) and 300.816\(c\)](#).

# Selected LEA requirements

- ▶ For IDEA Part B requirements that require calculations based upon the total IDEA subaward, the calculations should include the aggregate amount of the IDEA FFY 2021 funds and the ARP Act IDEA funds. This includes:
  - Comprehensive Coordinated Early Intervening Services
  - Proportionate Share

# LEA MOE adjustment (reduction)

- ▶ The supplementary IDEA ARP Act funds may allow for an adjustment under [34 C.F.R. § 300.205](#):
  - LEAs must meet requirements
  - SEAs should maintain integrity of the determinations process
  - Freed up funds must be spent on activities allowable under ESEA and SEAs should monitor and track funds
  - Funds expended for CEIS reduce the maximum amount that may be reduced

# Part C States

- ▶ Revised Section III (Use of Funds) was due June 18.
- ▶ Additional Section III for ARP Act IDEA funds is due August 2.
- ▶ Subsequent budget changes subject to Prior Approval requirement under [34 C.F.R. § 200.308\(f\)](#).
- ▶ State Use of Funds sections should reflect the total amounts the State proposes to expend over the entire period of availability for the IDEA FFY 2021 award, as well as the IDEA ARP allocations.



# Outlying Areas Part B<sup>1</sup>

- ▶ Using its discretion, the Department increased the amount of funding reserved for Part B programs in the outlying areas consistent with the increased IDEA section 611 funding provided by the ARP Act.
- ▶ As a result, the outlying areas will receive a separate allocation of ARP Act IDEA section 611 funds.
  - Increase in the maximum amount available for State administration as a result of the ARP Act IDEA section 611 funds. This is because, under 34 C.F.R. § 300.704(a)(1)(ii), the maximum amount that each outlying area may reserve for State administration is 5% of the amount the outlying area receives under 34 C.F.R. § 300.701(a) for the fiscal year or \$35,000, whichever is greater.

<sup>1</sup> The Outlying Areas are the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands

# Outlying Areas Part C

## Part C:

- ▶ Part C programs in the outlying areas were provided an increased reservation of regular IDEA FFY 2021 funds at the Department's discretion. That increase (53.4%) is proportionate to the increase in funding that States received as a result of IDEA ARP Act funding.
- ▶ Part C programs in the outlying areas will receive a single GAN and identifier for their FFY 2021 grant award. As a result, **no separate or second Section III** is necessary for the outlying areas.

# Freely Associated States<sup>2</sup> and the BIE

- ▶ For the freely associated States, The IDEA Part B funding level is defined in section 611(b)(1)(A)(ii) of the IDEA.
  - The Department has no discretion over this funding level, and each freely associated State receives level funding until reauthorization.
  - As such, the freely associated States were not eligible for IDEA ARP Act funds.

<sup>2</sup>The Freely Associated States are the Republic of the Marshall Islands, the Federated States of Micronesia and Republic of Palau



# Freely Associated States and the BIE Cont'd

- ▶ For the Department of the Interior (the BIE), the amount of the IDEA Part B grant is determined under the terms of the relevant appropriations act, which, for 2021, establishes the BIE's funding level as what the BIE received in FFY 2020 increased by the lesser of the increase in the appropriation under section 611 (i) of the IDEA or inflation, but in no case less than the BIE received in FFY 2020.
  - As a result of the regularly appropriated IDEA Part B funds for FFY 2021, the BIE received the maximum amount of IDEA Part B funds that it could receive under the terms of the appropriations act (that is, its allocation was determined by inflation), and additional increases in FFY 2021 funding would have no effect on the BIE's IDEA Part B allocation.
  - As such, the BIE was not eligible for additional IDEA Part B funding through the ARP Act.

# DMS Protocols

Integrated Monitoring

Sustaining Compliance and Improvement

# Protocols Update

- ▶ Thank you for your patience.
- ▶ We have posted the following protocols on our main [DMS 2.0](#) page.
  - Parts B and C – Integrated Monitoring
  - Part B and C – Sustaining Compliance and Improvement
- ▶ Both Protocols are applicable for both Part B and C.
- ▶ Reflect adjustments we made based on feedback we received through focus groups.

# (DMS 2.0) Focus Group Summary

- ▶ Purpose of focus groups
- ▶ TA Centers involved: ECTA, DaSy, NCSI, IDC
- ▶ Five focus groups (Three Part B, Two Part C)
- ▶ 40 Part B States and 18 Part C States represented
- ▶ Review of questions asked

# (DMS 2.0) Focus Group Summary

## Key Themes

- ▶ Too focused on compliance
- ▶ Does not allow for an integrated view of systems
- ▶ Clarification on terminology and themes would be helpful
- ▶ Redundancy across different protocols
- ▶ Formatting Issues
- ▶ Possibility of a separate Part C protocol
- ▶ Request for more context and checklists



# (DMS 2.0) Focus Group Summary

## OSEP Feedback to issues raised

- ▶ OSEP is committed to integrating compliance and results
- ▶ Review of State systems and general supervision components are integrated across eight puzzle pieces
- ▶ OSEP will consider a glossary to clarify terminology and themes
- ▶ Importance of looking at monitoring across two stages
- ▶ Response to formatting concerns (508 compliance)
- ▶ Similarity in Part C and Part B protocol questions
- ▶ OSEP and our federally funded TA centers will continue to provide support

# Sample: Integrated Monitoring Protocol

## PART B/C INTEGRATED MONITORING

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### OVERVIEW

In 2016, OSEP began providing differentiated monitoring and support (DMS) to States as part of its Results Driven Accountability (RDA) system under Parts B and C of the Individuals with Disabilities Education Act (IDEA). Under RDA, OSEP made a shift from monitoring based solely on compliance with IDEA requirements to monitoring and support focused on both compliance and improving results for infants, toddlers, children with disabilities referred to and/or served under the IDEA (collectively referred to as children with disabilities). OSEP differentiates its approach for each State based on the State's unique strengths, progress, challenges, and needs. Beginning in Federal fiscal year (FFY) 2021, Part B and Part C programs in States will be monitored by OSEP in a five-year cycle. OSEP will monitor all States<sup>1</sup> on their general supervision systems. OSEP will continue to provide support and technical assistance that is differentiated based on each State's unique strengths, challenges, and needs.

### IMPLEMENTATION

OSEP's monitoring of each State will be conducted in three (3) one-year (1 year) phases:

1. ***Year I: Pre-site work:*** In the year prior to the scheduled monitoring visit, the OSEP State Lead, in consultation with team members, will begin working with the State to prepare for the visit. This will include:
  - OSEP completion of component-specific protocols (each component is one of the eight puzzle pieces of DMS 2.0 monitoring);<sup>2</sup>
  - Review of publicly available information by the State Lead; and
  - Targeted interviews with State staff on the protocols.
2. ***Year II: On-Site work:*** Based on information developed through the pre-site work OSEP will develop an agenda for the on-site visit focusing on the issues that require further exploration, deeper looks or additional discussions.
3. ***Year III: Follow-up:*** In the year following the on-site visit, the OSEP State Lead will work with the State to ensure correction of any remaining outstanding findings, provide technical assistance and support, and discuss progress in improving identified results areas.

# How Protocols are Organized

*The protocols are developed and organized in the following way—*

**Question:** Overarching area and question related to the monitoring component.

**General Information:** A listing of statements about what the State would need to effectively answer the question.

**Possible Follow-up Questions:** Anything that would dive deeper into what the General Information are addressing. These questions are examples of what may be asked; OSEP may ask additional questions that are not listed to ensure understanding.

**Areas (or issues) for Follow-up:** Issues which could: 1) be findings of noncompliance if verified as true, or areas of concern that may not rise to a finding but require follow-up; 2) lead to a finding of noncompliance if the State does not have a process or procedure to meet the Basic Requirement; or 3) be areas that would benefit from technical assistance or further discussion.

# Definition and Suggested Documents

## PART B/C INTEGRATED MONITORING

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**Integrated Monitoring:** Does the State have a general supervision system that is reasonably designed to identify noncompliance and address improved results and functional outcomes in a timely manner using its different components?

***Component Definition: INTEGRATED MONITORING—***

***A multifaceted process or system that is designed to examine and evaluate each State’s general supervision system with an emphasis on improved educational results, functional outcomes and compliance with IDEA statutory and regulatory requirements.***

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**Suggested Documents to Review (not exhaustive):**

### PHASE 1

- *State’s risk assessment*
- *State’s written policies and procedures on monitoring*
- *State’s documentation of procedures for identifying noncompliance, including at a minimum:*
  - *methods for determining whether noncompliance has occurred,*
  - *steps to identify noncompliance through the State’s monitoring system,*
  - *timelines for making a written finding of noncompliance and notifying the affected public agency of that finding.*
- *Examples of State monitoring protocols*

### PHASE 2

- *Sample monitoring reports*
- *Notification letter for any local educational agencies (LEAs)/ early intervention service (EIS) providers with identified noncompliance*
- *Schedule of follow-up activities*
- *Examples of enforcement actions used by the State*

# Overarching Questions

## Overarching Questions (details start on page 5)

- A. What components of the State's general supervision system are used to identify noncompliance and improved results and functional outcomes?  
[34 C.F.R. §§ 300.149\(a\) & \(b\) and 300.600\(b\)](#); [34 C.F.R. §§ 303.120\(a\) & \(b\) and 303.700\(b\)](#)
  
- B. (If applicable) How does the State use its data system(s) to identify noncompliance and/or improved results and functional outcomes?  
[34 C.F.R. § 300.601](#); [34 C.F.R. § 303.701](#)
  
- C. How does the State use its data system(s) to inform monitoring priorities (e.g., districts/areas for focused monitoring, revision to policies, etc.)?  
[34 C.F.R. § 300.601](#); [34 C.F.R. § 303.701](#)

# CHANGE: From Basic Requirements to General Information

## A. What components of the State's general supervision system are used to identify noncompliance and improved results and functional outcomes?

34 C.F.R. §§ 300.149(a) & (b) and 300.600(b); 34 C.F.R. §§ 303.120(a) & (b) and 303.700(b)

### General Information

The State must be able to describe –

- The components of its general supervision and monitoring system.
- How it uses its data system(s) to identify noncompliance and improved results and functional outcomes, if applicable.
- How it is using its dispute resolution system (complaints, due process) to track and determine whether noncompliance was identified and whether further follow-up and correction are required (See also separate Dispute Resolution Protocol); and whether it has procedures in place to track and conduct appropriate follow up when there are informal allegations of noncompliance from credible sources that are not yet the subject of a formal State complaint or due process complaint.
- Any other components—such as self-assessments, desk audits, State Performance Plan/Annual Performance Report (SPP/APR) data, and other relevant data sources—it uses to identify noncompliance, results and functional outcomes.

# Follow Up Questions & Issues for Follow Up

## Possible Follow-up Questions

- When and how does the State identify noncompliance, results and functional outcomes? (Does the State use any method of pre-finding correction<sup>3</sup>? If so, what is that process/how does the State define pre-finding correction? Does the State conduct cyclical monitoring activities?)
- Does the State allow its LEAs/EIS providers to correct noncompliance before the State issues a formal finding?
- When the State reports SPP/APR compliance data to OSEP, does that data reflect actual indicator data that includes noncompliance, if applicable, or does it reflect indicator data that has been compiled after the State has addressed noncompliance?
- What mechanisms does the State use to ensure that each of its LEAs/EIS providers self-identifies noncompliance if there are no on-site visits?
- Does the State have procedures for monitoring when it is not able to go on-site?
- How do LEA/EIS provider determinations impact activities within the State's monitoring system?

## Areas (or issues) for Follow-up

- The State does not have a monitoring system that enables it to identify noncompliance and issue a finding in a timely manner.
- The State has a data system(s) but does not use it to identify noncompliance and improved results and functional outcomes.
- The State does not use its dispute resolution system to identify noncompliance.

# Links to Protocol

- ▶ <https://sites.ed.gov/idea/grantees/#DMS,DMS-2>
  - [Parts B and C – Integrated Monitoring](#)
  - [Part B and C – Sustaining Compliance and Improvement](#)



# Next Steps

- ▶ Data, Dispute Resolution and TA/PD Protocols
- ▶ Protocol release by October
- ▶ Continued collaboration with TA centers to solicit feedback



# OSEP

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